

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FREEDOM MORTGAGE CORPORATION,

Plaintiff,

-against-

ALEX C. MCLAIN; NEW YORK CITY
ENVIRONMENTAL CONTROL BOARD
BUREAU; NEW YORK CITY PARKING
VIOLATIONS BUREAU; and NEW YORK
CITY TRANSIT ADJUDICATION
BUREAU,

Defendants.

MEMORANDUM AND ORDER

Case No. 23-CV-1309 (FB) (LB)

Appearances:

For the Plaintiff:

ROBERT TREMAROLI

DEANA CHELI

Frenkel Lambert Weiss Weisman & Gordon, LLP

53 Gibson Street

Bay Shore, NY 11706

BLOCK, Senior District Judge:

On October 12, 2023, Magistrate Judge Lois Bloom issued a Report and Recommendation (“R&R”) recommending that Plaintiff Freedom Mortgage Corporation’s (“Freedom Mortgage”) motion for default judgment be granted in part and denied in part. Freedom Mortgage filed this action against Defendants

Alex C. McLain, the New York City Environmental Control Board Bureau (“ECB”), the New York City Parking Violations Bureau (“PVB”), and the New York City Transit Adjudication Bureau (“TAB”) (collectively, “the Defendants”), seeking to foreclose on a mortgage encumbering certain real property located at 182-14 146th Road, Springfield Gardens, New York 11413 (“Property”) pursuant to New York Real Property Actions and Proceedings Law (“RPAPL”) Article 13.

Defendants were served with a Summons and Complaint but never responded to the Complaint. The Clerk entered a default against Defendants on May 11, 2023. Magistrate Judge Bloom found that all service and procedural requirements had been satisfied and that the allegations set forth in Plaintiff’s Complaint stated valid claims sufficient for this Court to enter a default judgment in part.

For liability, Magistrate Bloom recommended that Freedom Mortgage is entitled to default judgment against Defendant McLain. For the non-mortgage Defendants ECB, PVB, and TAB, Magistrate Bloom found that ECB is a necessary party and that default judgment should be entered against it. However, she recommended that Freedom Mortgage’s motion for default judgment against PVB and TAB should be denied, and the claims brought against them dismissed without prejudice. Magistrate Bloom also recommended that Stephanie S. Goldstone, Esq.

be appointed as referee to conduct the sale of the Property under the terms set forth in the proposed judgment of foreclosure and sale.

For damages, Magistrate Bloom recommended that Freedom Mortgage should be awarded against Defendant McLain: (1) a judgment in the amount of \$379,970.41 for the unpaid principal balance due on the Note; (2) \$45,000.015 in interest due as of June 30, 2023, plus additional interest at a rate of \$40.34 per day from July 1, 2023 until the Court enters judgment, (3); a total of \$1,817.28 for pre-acceleration late charges; (4) \$22,051.87 in escrow advances; (5) \$210.00 in property inspection and NSF fees; and (6) an award of \$2,825.00 for attorney's fees and \$973.05 in costs.

Magistrate Bloom's R&R stated that failure to object within fourteen days of the date of the R&R waives the right to appeal, precluding further review either by this Court or the Court of Appeals. No objections were filed. If clear notice has been given of the consequences of failing to object and there are no objections, the Court may adopt the R&R without *de novo* review. *See Smith v. Campbell*, 782 F.3d 93, 102 (2d Cir. 2015) (“Where parties receive clear notice of the consequences, failure to timely object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision.”) (internal citations omitted). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed

plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000). No such error appears here.

Accordingly, the Court adopts the R&R without *de novo* review and directs the Clerk to enter judgment in accordance with the R&R. With respect to Defendant McClain, the Court directs the Clerk to enter a default judgment in favor of the Plaintiff Freedom Mortgage and award: (1) \$379,970.41 for the principal due on the Note; (2) \$45,000.01 in accrued interest due on the Note calculated from May 1, 2020 through June 30, 2023, plus *per diem* interest of \$40.34 until the date of entry of judgment; (3) \$2,058.72 in late charges prior to acceleration; (4) \$22,051.87 in escrow advances; (5) \$210.00 in other fees and disbursements; and (6) \$2,825.00 in attorneys' fees and \$973.05 in costs. The Court also directs the Clerk to enter default judgment in favor of Plaintiff Freedom Mortgage against Defendant New York City Environmental Control Board foreclosing its interests in the subject property but to deny, without prejudice, default judgment against the New York City Parking Violations Bureau and the New York City Transit Adjudication Bureau. Finally, the Court orders the foreclosure and sale of 182-14 146th Road, Springfield Gardens, NY 11413 and appoints Stephanie S. Goldstone, Esq. as referee for the foreclosure and sale.

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
November 07, 2023